

LICENSING, INSPECTION, DISPOSITION AND MOVEMENT OF TREES SUGGESTED PROCEDURES FOR UNIFORMITY

The increased movement and transplant of established trees from orchards, dooryards, native habitats and other such situations presents licensing, quarantine, and nursery regulatory problems. These procedures are suggested as an aid to the handling of such movements in a uniform manner.

I. Licensing and Native Plant Laws

- A. Landscape Contractors and Tree Movers - The License to Sell Nursery Stock is a pest control provision of the law. Established trees, shrubs, or other plant materials generally would not have been inspected to ensure pest cleanliness standards prior to their movement. Contractors or other persons moving or selling plants from locations other than licensed nursery growing grounds in connection with landscape work, are required to obtain a license to sell nursery stock the same way as though they were maintaining a nursery or a holding yard for nursery stock used in connection with that work.

However, a contractor licensed by the Contractors State License Board as a Landscape Contractor may not need to obtain the License to Sell Nursery Stock. A Landscape Contractor does not need a License when he/she (1) does not have a holding yard i.e. nursery stock is delivered direct to the landscape site, and (2) when the contractor purchases established plant material solely from locations that are licensed to sell nursery stock and the stock has been inspected and determined to be in compliance with quarantine and nursery stock standards including pest cleanliness, labeling, and quality.

- B. Contractors or tree movers who obtain plant material from orchards, dooryards, native habitats, and other locations not licensed and inspected, are required by Section 3060.6, California Code of Regulations, to obtain a shipping permit, prior to the removal of trees or plants, from the origin county agricultural commissioner. Plants should be inspected to determine compliance with minimum standards of cleanliness for nursery stock. If not in compliance, and if necessary, the plants may be (1) placed under a hold order until brought into compliance, or (2) permitted movement under restriction with the knowledge of the commissioners involved and the person receiving the stock..
- C. Farmers, Homeowners, Landholders - Farmers and others who sell established plant material to contractors or tree movers must obtain a License to Sell Nursery Stock.
- D. Native Plants - State laws also regulate the collection of certain native plants from the southern California counties of Imperial, Inyo, Kern, Los Angeles, Mono, Riverside, San Bernardino, Santa Barbara, and San Diego. Pest Exclusion Branch will cooperate with the commissioners of those counties in the issuance of required permits and in the performance of other regulatory activities.
- E. License Issuance - A License to Sell Nursery Stock will not be issued until the commissioner indicates that the applicant is complying with all the laws and regulations pertaining to nursery stock.

- II. Origin Inspection and Disposition - Inspection of established plants at origin is practical only when a farmer or landowner is licensed and the plants to be harvested can be readily and specifically identified. Inspection should be performed as for any other licensed sales or growing ground locations. (Ref. Nursery Inspection Procedures Manual Item # 4.)

Nursery stock not in compliance should be placed under hold by issuance of a "Nursery Stock Notice of Noncompliance" and the infested plants identified by a red Noncompliance Warning tag. Movement of stock not in compliance may be permitted under restriction by the origin commissioner only after the buyer and the destination commissioner have agreed in writing to accept it. Movement should be made with a Noncompliance Warning tag that clearly indicates the reason for the restricted movement.

III. Nursery Stock Certificates and Shipping Permits

- A. Authorization for use of the California Nursery Stock Certificate is practical only for licensed locations where the stock is in full compliance with nursery stock standards. Authorization is governed by Sections 3060.4(c), (d), and (e); 3060.5; and 3060.6.

Nursery stock certificates shall not be issued to contractors for tree or plant movements unless they have an established growing ground or nursery where nursery stock is inspected and determined to comply with the nursery inspection regulations.

Established nursery stock moved into a licensed or recognized growing ground and inspected, treated or reconditioned also could be eligible for future shipment under the California Nursery Stock Certificate.

- B. Shipments of nursery stock from other than regularly licensed nursery locations or growing grounds shall be permitted only with a blue shipping permit and warning that inspection at destination is required. The "manifest and inspection" provisions of the law apply (Section 6925, California Food and Agricultural Code).

It is difficult to apply requirements of the nursery inspection regulation to nursery stock not produced in conventional nursery growing grounds. Even though nursery stock may be relatively pest-free and of good quality, it should be distinguished from nursery stock produced under the terms of the nursery inspection regulation. The required use of the blue shipping permit for such shipments may provide the needed identification and safeguards against pest spread via movement of nursery stock that cannot be inspected adequately at origin.

IV. Destination Inspection and Disposition

- A. Nursery Stock Moved Lawfully - Inspection should be made in accordance with Nursery Inspection Procedures Manual Item #10, both for quarantine and for nursery regulatory purposes.

Nursery stock infested with pests shall be rejected using a quarantine rejection notice when appropriate, or it may be held for treatment or other corrective measures using the "Nursery Stock Notice of Noncompliance." The use of both forms is guided by Nursery Inspection Procedures Manual Item #10.

- B. Nursery Stock Moved Unlawfully - Unlawful movement will generally involve failure to comply with manifesting and holding for inspection provisions of Sections 6501 and 6921 - 6926, of the California Food and Agricultural Code. In addition, the stock itself

may not comply with applicable quarantine requirements and/or nursery stock standards.

In the latter instance, enforcement is complicated when the stock already has passed from the ownership of the contractor or tree mover to the homeowner or other receiver. If serious pests are involved the commissioner may choose to institute pest abatement proceedings against the new owner. When serious pests are not involved, the commissioner may decide to issue a notice of findings to the homeowner. The "Nursery Stock Notice of Noncompliance" may be used.

The contractor or tree mover should be called in for an investigative interview in the office of the destination commissioner. A statement of facts should be taken and a copy filed with the origin commissioner and the Nursery, Seed, and Cotton Program. The need for licensing would be determined by Nursery, Seed, and Cotton Program and a follow-up made to assure future compliance. If a second violation occurs: (1) a similar hearing may be held to show cause why the firm should not be prosecuted; (2) the person may be cited before the District Attorney; or (3) the commissioner may initiate prosecution. Again, a report should be filed with the origin commissioner and the Nursery, Seed, and Cotton Program.

Nursery, Seed, and Cotton Program will maintain a file of these reports, and when requested, will, in cooperation with the origin and/or destination commissioner(s), initiate prosecution, disciplinary action, or other legal remedies that may be applicable.

Representatives of Nursery, Seed, and Cotton Program and/or Pest Exclusion Branch will be available upon request to provide assistance in disciplinary actions.